

[COMMITTEE PRINT]

JUNE 13, 1997

[PROPOSED RECONCILIATION PROVISION]

1 **TITLE V—COMMITTEE ON EDU-**
2 **CATION AND THE**
3 **WORKFORCE**

4 **Subtitle A—TANF Block Grant**

5 **SEC. 5001. WELFARE-TO-WORK GRANTS.**

6 (a) GRANTS TO STATES.—Section 403(a) of the So-
7 cial Security Act (42 U.S.C. 603(a)) is amended by adding
8 at the end the following:

9 “(5) WELFARE-TO-WORK GRANTS.—

10 “(A) FORMULA GRANTS.—

11 “(i) ENTITLEMENT.—A State shall be
12 entitled to receive from the Secretary a
13 grant for each fiscal year specified in sub-
14 paragraph (H) of this paragraph for which
15 the State is a welfare-to-work State, in an
16 amount that does not exceed the lesser
17 of—

18 “(I) 2 times the total of the ex-
19 penditures by the State (excluding
20 qualified State expenditures (as de-
21 fined in section 409(a)(7)(B)(i)) and

1 expenditures described in section
2 409(a)(7)(B)(iv)) during the fiscal
3 year for activities described in sub-
4 paragraph (C)(i) of this paragraph; or
5 “(II) the allotment of the State
6 under clause (iii) of this subparagraph
7 for the fiscal year.

8 “(ii) WELFARE-TO-WORK STATE.—A
9 State shall be considered a welfare-to-work
10 State for a fiscal year for purposes of this
11 subparagraph if the Secretary, after con-
12 sultation (and the sharing of any plan or
13 amendment thereto submitted under this
14 clause) with the Secretary of Health and
15 Human Services and the Secretary of
16 Housing and Urban Development, deter-
17 mines that the State meets the following
18 requirements:

19 “(I) The State has submitted to
20 the Secretary (in the form of an ad-
21 dendum to the State plan submitted
22 under section 402) a plan which—

23 “(aa) describes how, consist-
24 ent with this subparagraph, the
25 State will use any funds provided

1 under this subparagraph during
2 the fiscal year;

3 “(bb) specifies the formula
4 to be used pursuant to clause (vi)
5 to distribute funds in the State,
6 and describes the process by
7 which the formula was developed;
8 and

9 “(cc) contains evidence that
10 the plan was developed through a
11 collaborative process that, at a
12 minimum, included sub-State
13 areas.

14 “(II) The State has provided the
15 Secretary with an estimate of the
16 amount that the State intends to ex-
17 pend during the fiscal year (excluding
18 expenditures described in section
19 409(a)(7)(B)(iv)) for activities de-
20 scribed in subparagraph (C)(i) of this
21 paragraph.

22 “(III) The State has agreed to
23 negotiate in good faith with the Sec-
24 retary of Health and Human Services
25 with respect to the substance of any

1 evaluation under section 413(j), and
2 to cooperate with the conduct of any
3 such evaluation.

4 “(IV) The State is an eligible
5 State for the fiscal year.

6 “(iii) ALLOTMENTS TO WELFARE-TO-
7 WORK STATES.—The allotment of a wel-
8 fare-to-work State for a fiscal year shall be
9 the available amount for the fiscal year
10 multiplied by the State percentage for the
11 fiscal year.

12 “(iv) AVAILABLE AMOUNT.—As used
13 in clause (iii), the term ‘available amount’
14 means, for a fiscal year, 95 percent of—

15 “(I) the amount specified in sub-
16 paragraph (H) for the fiscal year;
17 minus

18 “(II) the total of the amounts re-
19 served pursuant to subparagraphs (F)
20 and (G) for the fiscal year.

21 “(v) STATE PERCENTAGE.—As
22 used in clause (iii), the term ‘State
23 percentage’ means, with respect to a
24 fiscal year, $\frac{1}{2}$ of the sum of—

1 “(aa) the percentage rep-
2 resented by the number of indi-
3 viduals in the State whose in-
4 come is less than the poverty line
5 divided by the number of such in-
6 dividuals in the United States;
7 and

8 “(bb) the percentage rep-
9 resented by the number of indi-
10 viduals who are adult recipients
11 of assistance under the State
12 program funded under this part
13 divided by the number of individ-
14 uals in the United States who are
15 adult recipients of assistance
16 under any State program funded
17 under this part.

18 “(vi) DISTRIBUTION OF FUNDS WITH-
19 IN STATES.—

20 “(I) IN GENERAL.—A State to
21 which a grant is made under this sub-
22 paragraph shall distribute not less
23 than 85 percent of the grant funds
24 among the service delivery areas in

1 the State, in accordance with a for-
2 mula which—

3 “(aa) determines the
4 amount to be distributed for the
5 benefit of a service delivery area
6 in proportion to the number (if
7 any) by which the number of in-
8 dividuals residing in the service
9 delivery area with an income that
10 is less than the poverty line ex-
11 ceeds 5 percent of the population
12 of the service delivery area, rel-
13 ative to such number for the
14 other service delivery areas in the
15 State, and accords a weight of
16 not less than 50 percent to this
17 factor;

18 “(bb) may determine the
19 amount to be distributed for the
20 benefit of a service delivery area
21 in proportion to the number of
22 adults residing in the service de-
23 livery area who are recipients of
24 assistance under the State pro-
25 gram funded under this part

1 (whether in effect before or after
2 the amendments made by section
3 103(a) of the Personal Respon-
4 sibility and Work Opportunity
5 Reconciliation Act first applied to
6 the State) for at least 30 months
7 (whether or not consecutive) rel-
8 ative to the number of such
9 adults residing in the other serv-
10 ice delivery areas in the State;
11 and

12 “(cc) may determine the
13 amount to be distributed for the
14 benefit of a service delivery area
15 in proportion to the number of
16 unemployed individuals residing
17 in the service delivery area rel-
18 ative to the number of such indi-
19 viduals residing in the other serv-
20 ice delivery areas in the State.

21 “(II) SPECIAL RULE.—Notwith-
22 standing subclause (I), if the formula
23 used pursuant to subclause (I) would
24 result in the distribution of less than
25 \$100,000 during a fiscal year for the

1 benefit of a service delivery area, then
2 in lieu of distributing such sum in ac-
3 cordance with the formula, such sum
4 shall be available for distribution
5 under subclause (III) during the fiscal
6 year.

7 “(III) PROJECTS TO HELP LONG-
8 TERM RECIPIENTS OF ASSISTANCE
9 INTO THE WORK FORCE.—The Gov-
10 ernor of a State to which a grant is
11 made under this subparagraph may
12 distribute not more than 15 percent of
13 the grant funds (plus any amount re-
14 quired to be distributed under this
15 subclause by reason of subclause (II))
16 to projects that appear likely to help
17 long-term recipients of assistance
18 under the State program funded
19 under this part (whether in effect be-
20 fore or after the amendments made by
21 section 103(a) of the Personal Re-
22 sponsibility and Work Opportunity
23 Reconciliation Act first applied to the
24 State) enter the work force.

25 “(vii) ADMINISTRATION.—

1 “(I) IN GENERAL.—A grant
2 made under this subparagraph to a
3 State shall be administered by the
4 State agency that is administering, or
5 supervising the administration of, the
6 State program funded under this part,
7 or by another State agency designated
8 by the Governor of the State.

9 “(II) SPENDING BY PRIVATE IN-
10 DUSTRY COUNCILS.—The private in-
11 dustry council for a service delivery
12 area shall have sole authority, in co-
13 ordination with the chief elected offi-
14 cial (as described in section 103(c) of
15 the Job Training Partnership Act) of
16 the service delivery area, to expend
17 the amounts provided for a service de-
18 livery area under subparagraph
19 (vi)(I).

20 “(B) DEMONSTRATION PROJECTS.—

21 “(i) IN GENERAL.—The Secretary, in
22 consultation with the Secretary of Health
23 and Human Services and the Secretary of
24 Housing and Urban Development, shall
25 make grants in accordance with this sub-

1 paragraph among eligible applicants based
2 on the likelihood that the applicant can
3 successfully make long-term placements of
4 individuals into the work force.

5 “(ii) ELIGIBLE APPLICANTS.—As used
6 in clause (i), the term ‘eligible applicant’
7 means a private industry council or a polit-
8 ical subdivision of a State.

9 “(iii) DETERMINATION OF GRANT
10 AMOUNT.—In determining the amount of a
11 grant to be made under this subparagraph
12 for a demonstration project proposed by an
13 applicant, the Secretary shall provide the
14 applicant with an amount sufficient to en-
15 sure that the project has a reasonable op-
16 portunity to be successful, taking into ac-
17 count the number of long-term recipients
18 of assistance under a State program fund-
19 ed under this part, the level of unemploy-
20 ment, the job opportunities and job
21 growth, the poverty rate, and such other
22 factors as the Secretary deems appro-
23 priate, in the area to be served by the
24 project.

1 “(iv) FUNDING.—For grants under
2 this subparagraph for each fiscal year
3 specified in subparagraph (H), there shall
4 be available to the Secretary an amount
5 equal to the sum of—

6 “(I) 5 percent of—

7 “(aa) the amount specified
8 in subparagraph (H) for the fis-
9 cal year; minus

10 “(bb) the total of the
11 amounts reserved pursuant to
12 subparagraphs (F) and (G) for
13 the fiscal year;

14 “(II) any amount available for
15 grants under this paragraph for the
16 immediately preceding fiscal year that
17 has not been obligated;

18 “(III) any amount reserved pur-
19 suant to subparagraph (F) for the im-
20 mediately preceding fiscal year that
21 has not been obligated; and

22 “(IV) any available amount (as
23 defined in subparagraph (A)(iv)) for
24 the immediately preceding fiscal year

1 that has not been obligated by a State
2 or sub-State entity.

3 Amounts made available pursuant to this
4 clause are authorized to remain available
5 until the end of fiscal year 2001.

6 “(C) LIMITATIONS ON USE OF FUNDS.—

7 “(i) ALLOWABLE ACTIVITIES.—An en-
8 tity to which funds are provided under this
9 paragraph may use the funds to move into
10 the work force recipients of assistance
11 under the program funded under this part
12 of the State in which the entity is located,
13 by means of any of the following:

14 “(I) Job creation through public
15 or private sector employment wage
16 subsidies.

17 “(II) On-the-job training.

18 “(III) Contracts with job place-
19 ment companies or public job place-
20 ment programs.

21 “(IV) Job vouchers.

22 “(V) Job retention or support
23 services if such services are not other-
24 wise available.

1 “(ii) REQUIRED BENEFICIARIES.—An
2 entity that operates a project with funds
3 provided under this paragraph shall expend
4 at least 90 percent of all funds provided to
5 the project for the benefit of recipients of
6 assistance under the program funded
7 under this part of the State in which the
8 entity is located who meet the require-
9 ments of any of the following subclauses:

10 “(I) The individual has received
11 assistance under the State program
12 funded under this part (whether in ef-
13 fect before or after the amendments
14 made by section 103 of the Personal
15 Responsibility and Work Opportunity
16 Reconciliation Act of 1996 first apply
17 to the State) for at least 30 months
18 (whether or not consecutive).

19 “(II) At least 2 of the following
20 apply to the recipient:

21 “(aa) The individual has not
22 completed secondary school or
23 obtained a certificate of general
24 equivalency, and has low skills in
25 reading and mathematics.

1 “(bb) The individual re-
2 quires substance abuse treatment
3 for employment.

4 “(cc) The individual has a
5 poor work history.

6 The Secretary shall prescribe such
7 regulations as may be necessary to in-
8 terpret this subclause.

9 “(III) Within 12 months, the in-
10 dividual will become ineligible for as-
11 sistance under the State program
12 funded under this part by reason of a
13 durational limit on such assistance,
14 without regard to any exemption pro-
15 vided pursuant to section
16 408(a)(7)(C) that may apply to the
17 individual.

18 “(iii) LIMITATION ON APPLICABILITY
19 OF SECTION 404.—The rules of section
20 404, other than subsections (b), (f), and
21 (h) of section 404, shall not apply to a
22 grant made under this paragraph.

23 “(iv) PROHIBITION AGAINST PROVI-
24 SION OF SERVICES BY PRIVATE INDUSTRY
25 COUNCIL.—A private industry council may

1 not directly provide services using funds
2 provided under this paragraph.

3 “(v) PROHIBITION AGAINST USE OF
4 GRANT FUNDS FOR ANY OTHER FUND
5 MATCHING REQUIREMENT.—An entity to
6 which funds are provided under this para-
7 graph shall not use any part of the funds
8 to fulfill any obligation of any State, politi-
9 cal subdivision, or private industry council
10 to contribute funds under other Federal
11 law.

12 “(vi) DEADLINE FOR EXPENDI-
13 TURE.—An entity to which funds are pro-
14 vided under this paragraph shall remit to
15 the Secretary any part of the funds that
16 are not expended within 3 years after the
17 date the funds are so provided.

18 “(D) INDIVIDUALS WITH INCOME LESS
19 THAN THE POVERTY LINE.—For purposes of
20 this paragraph, the number of individuals with
21 an income that is less than the poverty line
22 shall be determined based on the methodology
23 used by the Bureau of the Census to produce
24 and publish intercensal poverty data for 1993
25 for States and counties.

1 “(E) DEFINITIONS.—As used in this para-
2 graph:

3 “(i) PRIVATE INDUSTRY COUNCIL.—
4 The term ‘private industry council’ means,
5 with respect to a service delivery area, the
6 private industry council (or successor en-
7 tity) established for the service delivery
8 area pursuant to the Job Training Part-
9 nership Act.

10 “(ii) SECRETARY.—The term ‘Sec-
11 retary’ means the Secretary of Labor, ex-
12 cept as otherwise expressly provided.

13 “(iii) SERVICE DELIVERY AREA.—The
14 term ‘service delivery area’ shall have the
15 meaning given such term for purposes of
16 the Job Training Partnership Act (or suc-
17 cessor area).

18 “(F) FUNDING FOR INDIAN TRIBES.—1
19 percent of the amount specified in subpara-
20 graph (H) for each fiscal year shall be reserved
21 for grants to Indian tribes under section
22 412(a)(3).

23 “(G) EVALUATIONS.—0.5 percent of the
24 amount specified in subparagraph (H) for each
25 fiscal year shall be reserved for use by the Sec-

1 retary of Health and Human Services to carry
2 out section 413(j).

3 “(H) FUNDING.—The amount specified in
4 this subparagraph is—

5 “(i) \$750,000,000 for fiscal year
6 1998;

7 “(ii) \$1,250,000,000 for fiscal year
8 1999; and

9 “(iii) \$1,000,000,000 for fiscal year
10 2000.

11 “(I) BUDGET SCORING.—Notwithstanding
12 section 457(b)(2) of the Balanced Budget and
13 Emergency Deficit Control Act of 1985, the
14 baseline shall assume that no grant shall be
15 made under this paragraph or under section
16 412(a)(3) after fiscal year 2001.”.

17 (b) GRANTS TO TERRITORIES.—Section 1108(a) of
18 such Act (42 U.S.C. 1308(a)) is amended by inserting
19 “(except section 403(a)(5))” after “title IV”.

20 (c) GRANTS TO INDIAN TRIBES.—Section 412(a) of
21 such Act (42 U.S.C. 612(a)) is amended by adding at the
22 end the following:

23 “(3) WELFARE-TO-WORK GRANTS.—

24 “(A) IN GENERAL.—The Secretary shall
25 make a grant in accordance with this paragraph

1 to an Indian tribe for each fiscal year specified
2 in section 403(a)(5)(H) for which the Indian
3 tribe is a welfare-to-work tribe, in such amount
4 as the Secretary deems appropriate, subject to
5 subparagraph (B) of this paragraph.

6 “(B) WELFARE-TO-WORK TRIBE.—An In-
7 dian tribe shall be considered a welfare-to-work
8 tribe for a fiscal year for purposes of this para-
9 graph if the Indian tribe meets the following re-
10 quirements:

11 “(i) The Indian tribe has submitted to
12 the Secretary (in the form of an addendum
13 to the tribal family assistance plan, if any,
14 of the Indian tribe) a plan which describes
15 how, consistent with section 403(a)(5), the
16 Indian tribe will use any funds provided
17 under this paragraph during the fiscal
18 year.

19 “(ii) The Indian tribe has provided
20 the Secretary with an estimate of the
21 amount that the Indian tribe intends to ex-
22 pend during the fiscal year (excluding trib-
23 al expenditures described in section
24 409(a)(7)(B)(iv)) for activities described in
25 section 403(a)(5)(C)(i).

1 “(iii) The Indian tribe has agreed to
2 negotiate in good faith with the Secretary
3 of Health and Human Services with re-
4 spect to the substance of any evaluation
5 under section 413(j), and to cooperate with
6 the conduct of any such evaluation.

7 “(C) LIMITATIONS ON USE OF FUNDS.—
8 Section 403(a)(5)(C) shall apply to funds pro-
9 vided to Indian tribes under this paragraph in
10 the same manner in which such section applies
11 to funds provided under section 403(a)(5).”.

12 (d) FUNDS RECEIVED FROM GRANTS TO BE DIS-
13 REGARDED IN APPLYING DURATIONAL LIMIT ON ASSIST-
14 ANCE.—Section 408(a)(7) of such Act (42 U.S.C.
15 608(a)(7)) is amended by adding at the end the following:

16 “(G) INAPPLICABILITY TO WELFARE-TO-
17 WORK GRANTS AND ASSISTANCE.—For purposes
18 of subparagraph (A) of this paragraph, a grant
19 made under section 403(a)(5) shall not be con-
20 sidered a grant made under section 403, and
21 assistance from funds provided under section
22 403(a)(5) shall not be considered assistance.”.

23 (e) EVALUATIONS.—Section 413 of such Act (42
24 U.S.C. 613) is amended by adding at the end the follow-
25 ing:

1 “(j) EVALUATION OF WELFARE-TO-WORK PRO-
2 GRAMS.—The Secretary—

3 “(1) shall, in consultation with the Secretary of
4 Labor, develop a plan to evaluate how grants made
5 under sections 403(a)(5) and 412(a)(3) have been
6 used; and

7 “(2) may evaluate the use of such grants by
8 such grantees as the Secretary deems appropriate, in
9 accordance with an agreement entered into with the
10 grantees after good-faith negotiations.”.

11 **SEC. 5002. NONDISPLACEMENT.**

12 Section 407(f) of the Social Security Act (42 U.S.C.
13 607(f)) is amended to read as follows:

14 “(f) NONDISPLACEMENT IN WORK ACTIVITIES.—

15 “(1) PROHIBITIONS.—

16 “(A) GENERAL PROHIBITION.—A partici-
17 pant in a work activity pursuant to section
18 403(a)(5) or this section shall not displace (in-
19 cluding a partial displacement, such as a reduc-
20 tion in the hours of nonovertime work, wages,
21 or employment benefits) any individual who, as
22 of the date of the participation, is an employee.

23 “(B) PROHIBITION ON IMPAIRMENT OF
24 CONTRACTS.—A work activity shall not impair
25 an existing contract for services or collective

1 bargaining agreement, and a work activity that
2 would be inconsistent with the terms of a collec-
3 tive bargaining agreement shall not be under-
4 taken without the written concurrence of the
5 labor organization and employer concerned.

6 “(C) OTHER PROHIBITIONS.—A partici-
7 pant in a work activity shall not be employed in
8 a job—

9 “(i) when any other individual is on
10 layoff from the same or any substantially
11 equivalent job;

12 “(ii) when the employer has termi-
13 nated the employment of any regular em-
14 ployee or otherwise reduced the workforce
15 of the employer with the intention of filling
16 the vacancy so created with the partici-
17 pant; or

18 “(iii) which is created in a pro-
19 motional line that will infringe in any way
20 upon the promotional opportunities of em-
21 ployed individuals.

22 “(2) HEALTH AND SAFETY.—Health and safety
23 standards established under Federal and State law
24 otherwise applicable to working conditions of em-
25 ployees shall be equally applicable to working condi-

1 tions of participants engaged in a work activity. To
2 the extent that a State workers' compensation law
3 applies, workers' compensation shall be provided to
4 participants on the same basis as the compensation
5 is provided to other individuals in the State in simi-
6 lar employment.

7 “(3) NONDISCRIMINATION.—In addition to the
8 protections provided under the provisions of law
9 specified in section 408(c), an individual may not be
10 discriminated against with respect to participation in
11 work activities by reason of gender.

12 “(4) GRIEVANCE PROCEDURE.—

13 “(A) IN GENERAL.—Each State to which a
14 grant is made under section 403 shall establish
15 and maintain a procedure for grievances or
16 complaints alleging violations of paragraph (1),
17 (2), or (3) from participants and other inter-
18 ested or affected parties. The procedure shall
19 include an opportunity for a hearing and be
20 completed within 60 days after the grievance or
21 complaint is filed.

22 “(B) INVESTIGATION.—

23 “(i) IN GENERAL.—The Secretary of
24 Labor shall investigate an allegation of a
25 violation of paragraph (1), (2), or (3) if—

1 “(I) a decision relating to the
2 violation is not reached within 60
3 days after the date of the filing of the
4 grievance or complaint, and either
5 party appeals to the Secretary of
6 Labor; or

7 “(II) a decision relating to the
8 violation is reached within the 60-day
9 period, and the party to which the de-
10 cision is adverse appeals the decision
11 to the Secretary of Labor.

12 “(ii) ADDITIONAL REQUIREMENT.—
13 The Secretary of Labor shall make a final
14 determination relating to an appeal made
15 under clause (i) no later than 120 days
16 after receiving the appeal.

17 “(C) REMEDIES.—Remedies for violation
18 of paragraph (1), (2), or (3) shall be limited
19 to—

20 “(i) suspension or termination of pay-
21 ments under section 403;

22 “(ii) prohibition of placement of a
23 participant with an employer that has vio-
24 lated paragraph (1), (2), or (3);

1 “(iii) where applicable, reinstatement
2 of an employee, payment of lost wages and
3 benefits, and reestablishment of other rel-
4 evant terms, conditions and privileges of
5 employment; and

6 “(iv) where appropriate, other equi-
7 table relief.”.

8 **SEC. 5003. CLARIFICATION OF LIMITATION ON NUMBER OF**
9 **PERSONS WHO MAY BE TREATED AS EN-**
10 **GAGED IN WORK BY REASON OF PARTICIPA-**
11 **TION IN EDUCATIONAL ACTIVITIES.**

12 (a) IN GENERAL.—Section 407(c)(2)(D) of the Social
13 Security Act (42 U.S.C. 607(c)(2)(D)) is amended to read
14 as follows:

15 “(D) LIMITATION ON NUMBER OF PER-
16 SONS WHO MAY BE TREATED AS ENGAGED IN
17 WORK BY REASON OF PARTICIPATION IN EDU-
18 CATIONAL ACTIVITIES.—For purposes of deter-
19 mining monthly participation rates under para-
20 graphs (1)(B)(i) and (2)(B) of subsection (b),
21 not more than 20 percent of the number of in-
22 dividuals in all families and in 2-parent fami-
23 lies, respectively, in a State who are treated as
24 engaged in work for a month may consist of in-
25 dividuals who are determined to be engaged in

1 work for the month by reason of participation
2 in vocational educational training, or deemed to
3 be engaged in work for the month by reason of
4 subparagraph (C) of this paragraph.”.

5 (b) RETROACTIVITY.—The amendment made by sub-
6 section (a) of this section shall take effect as if included
7 in the enactment of section 103(a) of the Personal Re-
8 sponsibility and Work Opportunity Reconciliation Act of
9 1996.

10 **SEC. 5004. COMPENSATION; MAXIMUM REQUIRED HOURS**
11 **OF WORK ACTIVITIES.**

12 (a) IN GENERAL.—Section 407 of the Social Security
13 Act (42 U.S.C. 607) is amended by adding at the end the
14 following:

15 “(j) COMPENSATION.—A State to which a grant is
16 made under section 403 may not require a recipient of
17 assistance under the State program funded under this
18 part to participate in a work activity described in para-
19 graph (1), (2), or (3) of subsection (d) unless the recipient
20 is compensated at the same rates, including periodic in-
21 creases, as trainees or employees who are similarly situ-
22 ated in similar occupations by the same employer and who
23 have similar training, experience and skills, and such rates
24 shall be in accordance with applicable law.

1 “(k) LIMITATION ON NUMBER OF HOURS PER
2 MONTH THAT A RECIPIENT OF ASSISTANCE MAY BE RE-
3 QUIRED TO PARTICIPATE IN ON-THE-JOB TRAINING, AND
4 WITH A PUBLIC AGENCY OR NONPROFIT ORGANIZA-
5 TION.—

6 “(1) IN GENERAL.—A State to which a grant
7 is made under section 403 may not require a recipi-
8 ent of assistance under the State program funded
9 under this part to be assigned to on-the-job training,
10 and to a work experience or community service posi-
11 tion with a public agency or nonprofit organization
12 during a month for more than the allowable number
13 of hours determined for the month under paragraph
14 (2).

15 “(2) ALLOWABLE NUMBER OF HOURS.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the allowable number of hours deter-
18 mined for a month under this paragraph is—

19 “(i) the value of the includible bene-
20 fits provided by the State to the recipient
21 during the month; divided by

22 “(ii) the minimum wage rate in effect
23 during the month under section 6 of the
24 Fair Labor Standards Act of 1938.

1 “(B) STATE OPTION TO TAKE ACCOUNT OF
2 CERTAIN WORK ACTIVITIES.—

3 “(i) IN GENERAL.—In determining
4 the allowable number of hours for a month
5 for a sufficiently employed recipient, the
6 State may subtract from the allowable
7 number of hours calculated under subpara-
8 graph (A) the number of hours during the
9 month for which the recipient participates
10 in a work activity described in paragraph
11 (6), (8), (9), or (11) of subsection (d).

12 “(ii) SUFFICIENTLY EMPLOYED RE-
13 CIPIENT.—As used in clause (i), the term
14 ‘sufficiently employed recipient’ means,
15 with respect to a month, a recipient who is
16 employed during the month for a number
17 of hours that is not less than—

18 “(I) the sum of the dollar value
19 of any assistance provided to the re-
20 cipient during the month under the
21 State program funded under this part,
22 and the dollar value equivalent of any
23 benefits provided to the recipient dur-
24 ing the month under the food stamp

1 program under the Food Stamp Act
2 of 1977; divided by

3 “(II) the minimum wage rate in
4 effect during the month under section
5 6 of the Fair Labor Standards Act of
6 1938.

7 “(3) DEFINITION OF VALUE OF THE INCLUD-
8 IBLE BENEFITS.—As used in paragraph (2)(A), the
9 term ‘value of the includible benefits’ means, with
10 respect to a recipient—

11 “(A) the dollar value of any assistance
12 under the State program funded under this
13 part;

14 “(B) the dollar value equivalent of any
15 benefits under the food stamp program under
16 the Food Stamp Act of 1977;

17 “(C) at the option of the State, the dollar
18 value of benefits under the State plan approved
19 under title XIX, as determined in accordance
20 with paragraph (4);

21 “(D) at the option of the State, the dollar
22 value of child care assistance; and

23 “(E) at the option of the State, the dollar
24 value of housing benefits.

1 “(4) VALUATION OF MEDICAID BENEFITS.—An-
2 nually, the Secretary shall publish a table that speci-
3 fies the dollar value of the insurance coverage pro-
4 vided under title XIX to a family of each size, which
5 may take account of geographical variations or other
6 factors identified by the Secretary.

7 “(5) TREATMENT OF RECIPIENTS ASSIGNED TO
8 CERTAIN POSITIONS WITH A PUBLIC AGENCY OR
9 NONPROFIT ORGANIZATION.—A recipient of assist-
10 ance under a State program funded under this part
11 who is engaged in work experience or community
12 service with a public agency or nonprofit organiza-
13 tion shall not be considered an employee of the pub-
14 lic agency or the nonprofit organization.”.

15 (b) RETROACTIVITY.—The amendment made by sub-
16 section (a) of this section shall take effect as if included
17 in the enactment of section 103(a) of the Personal Re-
18 sponsibility and Work Opportunity Reconciliation Act of
19 1996.

20 **SEC. 5005. PENALTY FOR FAILURE OF STATE TO REDUCE**
21 **ASSISTANCE FOR RECIPIENTS REFUSING**
22 **WITHOUT GOOD CAUSE TO WORK.**

23 (a) IN GENERAL.—Section 409(a) of the Social Secu-
24 rity Act (42 U.S.C. 609(a)) is amended by adding at the
25 end the following:

1 “(13) PENALTY FOR FAILURE TO REDUCE AS-
2 SISTANCE FOR RECIPIENTS REFUSING WITHOUT
3 GOOD CAUSE TO WORK.—

4 “(A) IN GENERAL.—If the Secretary deter-
5 mines that a State to which a grant is made
6 under section 403 in a fiscal year has violated
7 section 407(e) during the fiscal year, the Sec-
8 retary shall reduce the grant payable to the
9 State under section 403(a)(1) for the imme-
10 diately succeeding fiscal year by an amount
11 equal to not less than 1 percent and not more
12 than 5 percent of the State family assistance
13 grant.

14 “(B) PENALTY BASED ON SEVERITY OF
15 FAILURE.—The Secretary shall impose reduc-
16 tions under subparagraph (A) with respect to a
17 fiscal year based on the degree of noncompli-
18 ance.”.

19 (b) RETROACTIVITY.—The amendment made by sub-
20 section (a) of this section shall take effect as if included
21 in the enactment of section 103(a) of the Personal Re-
22 sponsibility and Work Opportunity Reconciliation Act of
23 1996.

1 **Subtitle B—Higher Education**
2 **Programs**

3 **SEC. 5101. MANAGEMENT AND RECOVERY OF RESERVES.**

4 (a) AMENDMENT.—Section 422 of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1072) is amended by add-
6 ing after subsection (g) the following new subsection:

7 “(h) RECALL OF RESERVES; LIMITATIONS ON USE
8 OF RESERVE FUNDS AND ASSETS.—(1) Notwithstanding
9 any other provision of law, the Secretary shall, except as
10 otherwise provided in this subsection, recall
11 \$1,000,000,000 from the reserve funds held by guaranty
12 agencies on September 1, 2002.

13 “(2) Funds recalled by the Secretary under this sub-
14 section shall be deposited in the Treasury.

15 “(3) The Secretary shall require each guaranty agen-
16 cy to return reserve funds under paragraph (1) based on
17 such agency’s required share of recalled reserve funds held
18 by guaranty agencies as of September 30, 1996. For pur-
19 poses of this paragraph, a guaranty agency’s required
20 share of recalled reserve funds shall be determined as fol-
21 lows:

22 “(A) The Secretary shall compute each agency’s
23 reserve ratio by dividing (i) the amount held in such
24 agency’s reserve funds as of September 30, 1996
25 (but reflecting later accounting or auditing adjust-

1 ments approved by the Secretary), by (ii) the origi-
2 nal principal amount of all loans for which such
3 agency has an outstanding insurance obligation as of
4 such date.

5 “(B) If the reserve ratio of any agency as com-
6 puted under subparagraph (A) exceeds 2.0 percent,
7 the agency’s required share shall include so much of
8 the amounts held in such agency’s reserve fund as
9 exceed a reserve ratio of 2.0 percent.

10 “(C) If any additional amount is required to be
11 recalled under paragraph (1) (after deducting the
12 total of the required shares calculated under sub-
13 paragraph (B)), the agencies’ required shares shall
14 include additional amounts—

15 “(i) determined by imposing on each such
16 agency an equal percentage reduction in the
17 amount of each agency’s reserve fund remain-
18 ing after deduction of the amount recalled
19 under subparagraph (B); and

20 “(ii) the total of which equals the addi-
21 tional amount that is required to be recalled
22 under paragraph (1) (after deducting the total
23 of the required shares calculated under sub-
24 paragraph (B)).

1 “(4) Within 90 days after the beginning of each of
2 fiscal years 1998 through 2002, each guaranty agency
3 shall transfer a portion of each agency’s required share
4 determined under paragraph (3) to a restricted account
5 established by the guaranty agency that is of a type se-
6 lected by the guaranty agency with the approval of the
7 Secretary. Funds transferred to such restricted accounts
8 shall be invested in obligations issued or guaranteed by
9 the United States or in other similarly low-risk securities.
10 A guaranty agency shall not use the funds in such a re-
11 stricted account for any purpose without the express writ-
12 ten permission of the Secretary, except that a guaranty
13 agency may use the earnings from such restricted account
14 to assist in meeting the agency’s operational expenses
15 under this part. In each of fiscal years 1998 through
16 2002, each agency shall transfer its required share to such
17 restricted account in 5 equal annual installments, except
18 that—

19 “(A) a guarantee agency that has a reserve
20 ratio (as computed under subparagraph (3)(A))
21 equal to or less than 1.10 percent may transfer its
22 required share to such account in 4 equal install-
23 ments beginning in fiscal year 1999; and

24 “(B) a guarantee agency may transfer such re-
25 quired share to such account in accordance with

1 such other payment schedules as are approved by
2 the Secretary.

3 “(5) If, on September 1, 2002, the total amount in
4 the restricted accounts described in paragraph (4) is less
5 than the amount the Secretary is required to recall under
6 paragraph (1), the Secretary may require the return of
7 the amount of the shortage from other reserve funds held
8 by guaranty agencies under procedures established by the
9 Secretary.

10 “(6) The Secretary may take such reasonable meas-
11 ures, and require such information, as may be necessary
12 to ensure that guaranty agencies comply with the require-
13 ments of this subsection. Notwithstanding any other provi-
14 sion of this part, if the Secretary determines that a guar-
15 anty agency is not in compliance with the requirements
16 of this subsection, such agency may not receive any other
17 funds under this part until the Secretary determines that
18 such agency is in compliance.

19 “(7) The Secretary shall not have any authority to
20 direct a guaranty agency to return reserve funds under
21 subsection (g)(1)(A) during the period from the date of
22 enactment of this subsection through September 30, 2002,
23 and any reserve funds otherwise returned under sub-
24 section (g)(1) during such period shall be treated as

1 amounts recalled under this subsection and shall not be
2 available under subsection (g)(4).

3 “(8) For purposes of this subsection, the term ‘re-
4 serve funds’ when used with respect to a guaranty agen-
5 cy—

6 “(A) includes any cash reserve funds held by
7 the guaranty agency, or held by, or under the con-
8 trol of, any other entity; and

9 “(B) does not include buildings, equipment, or
10 other nonliquid assets.”.

11 (b) CONFORMING AMENDMENT.—Section
12 428(c)(9)(A) of the Higher Education Act of 1965 (20
13 U.S.C. 1078(c)(9)(A)) is amended—

14 (1) in the first sentence, by striking “for the
15 fiscal year of the agency that begins in 1993”; and

16 (2) by striking the third sentence.

17 **SEC. 5102. REPEAL OF DIRECT LOAN ORIGINATION FEES TO**
18 **INSTITUTIONS OF HIGHER EDUCATION.**

19 Section 452 of the Higher Education Act of 1965 (20
20 U.S.C. 1087b) is amended—

21 (1) by striking subsection (b); and

22 (2) by redesignating subsections (c) and (d) as
23 subsections (b) and (c), respectively.

1 **SEC. 5103. FUNDS FOR ADMINISTRATIVE EXPENSES.**

2 Subsection (a) of section 458 of the Higher Edu-
3 cation Act of 1965 (20 U.S.C. 1087h(a)) is amended to
4 read as follows:

5 “(a) IN GENERAL.—(1) Each fiscal year, there shall
6 be available to the Secretary from funds not otherwise ap-
7 propriated, funds to be obligated for—

8 “(A) administrative costs under this part and
9 part B, including the costs of the direct student loan
10 programs under this part, and

11 “(B) administrative cost allowances payable to
12 guaranty agencies under part B and calculated in
13 accordance with paragraph (2),

14 not to exceed (from such funds not otherwise appro-
15 priated) \$532,000,000 in fiscal year 1998, \$610,000,000
16 in fiscal year 1999, \$705,000,000 in fiscal year 2000,
17 \$750,000,000 in fiscal year 2001, and \$750,000,000 in
18 fiscal year 2002. Administrative cost allowances under
19 subparagraph (B) of this paragraph shall be paid quar-
20 terly and used in accordance with section 428(f). The Sec-
21 retary may carry over funds available under this section
22 to a subsequent fiscal year.

23 “(2) Administrative cost allowances payable to guar-
24 anty agencies under paragraph (1)(B) shall be calculated
25 on the basis of 0.85 percent of the total principal amount
26 of loans upon which insurance is issued on or after the

1 date of enactment of the Balanced Budget Act of 1997,
2 except that such allowances shall not exceed—

3 “(A) \$170,000,000 for each of the fiscal years
4 1998 and 1999; or

5 “(B) \$150,000,000 for each of the fiscal years
6 2000, 2001, and 2002.”.

7 **SEC. 5104. SECRETARY’S EQUITABLE SHARE OF COLLEC-**
8 **TIONS ON CONSOLIDATED DEFAULTED**
9 **LOANS.**

10 Section 428(c)(6)(A) of the Higher Education Act of
11 1965 (20 U.S.C. 1078(c)(6)(A)) is amended—

12 (1) in the matter preceding clause (i), by strik-
13 ing “made by the borrower” and inserting “made by
14 or on behalf of the borrower, including payments
15 made to discharge loans made under this title to ob-
16 tain a consolidation loan pursuant to this part or
17 part D,”; and

18 (2) in clause (ii), by striking “(ii) an amount
19 equal to 27 percent of such payments (subject to
20 subparagraph (D) of this paragraph) for costs relat-
21 ed” and inserting the following:

22 “(ii) an amount equal to 27 percent of such
23 payments for covered costs, except that the amount
24 determined under this clause for such covered costs
25 shall be (I) 18.5 percent of such payments for de-

1 faulted loans consolidated pursuant to this part or
2 part D on or after July 1, 1997; and (II) 18.5 per-
3 cent of such payments for defaulted loans consoli-
4 dated pursuant to this part or part D on or after
5 the date of enactment of the Higher Education
6 Amendments of 1992 with respect to any guaranty
7 agency that has, after such date, made deductions
8 from such payments under this clause (ii) in an
9 amount equal to 18.5 percent of such payments.
10 For purposes of clause (ii) of this subparagraph, the term
11 ‘covered costs’ means costs related”.

12 **SEC. 5105. EXTENSION OF STUDENT AID PROGRAMS.**

13 Title IV of the Higher Education Act of 1965 (20
14 U.S.C. 1070 et seq.) is amended—

15 (1) in section 424(a), by striking “1998.” and
16 “2002.” and inserting “2002.” and “2006.”, respec-
17 tively;

18 (2) in section 428(a)(5), by striking “1998,”
19 and “2002.” and inserting “2002,” and “2006.”, re-
20 spectively; and

21 (3) in section 428C(e), by striking “1998.” and
22 inserting “2002.”.

1 **Subtitle C—Repeal of Smith-**
2 **Hughes Vocational Education Act**

3 SEC. 5201. REPEAL OF SMITH-HUGHES VOCATIONAL EDU-
4 CATION ACT.

5 The Act of February 23, 1917 (39 Stat. 929; 20
6 U.S.C. 11) (commonly known as the “Smith-Hughes Vo-
7 cational Education Act”) is repealed.

8 **Subtitle D—Expansion of Port-**
9 **ability and Health Insurance**
10 **Coverage**

11 **SEC. 5301. SHORT TITLE OF SUBTITLE.**

This subtitle may be cited as the “Expansion of Port-
ability and Health Insurance Coverage Act of 1997”.

14 **SEC. 5302. RULES GOVERNING ASSOCIATION HEALTH**
15 **PLANS.**

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

19 “PART 8—RULES GOVERNING ASSOCIATION HEALTH
20 PLANS

21 “SEC. 801. ASSOCIATION HEALTH PLANS.

22 “(a) IN GENERAL.—For purposes of this part, the
23 term ‘association health plan’ means a group health
24 plan—

1 “(1) whose sponsor is (or is deemed under this
2 part to be) described in subsection (b), and

3 “(2) under which at least one option of health
4 insurance coverage offered by a health insurance is-
5 suer (which may include, among other options, man-
6 aged care options, point of service options, and pre-
7 ferred provider options) is provided to participants
8 and beneficiaries.

9 “(b) SPONSORSHIP.—The sponsor of a group health
10 plan is described in this subsection if such sponsor—

11 “(1) is organized and maintained in good faith,
12 with a constitution and bylaws specifically stating its
13 purpose and providing for periodic meetings on at
14 least an annual basis, as a trade association, an in-
15 dustry association (including a rural electric cooper-
16 ative association or a rural telephone cooperative as-
17 sociation), a professional association, or a chamber
18 of commerce (or similar business group, including a
19 corporation or similar organization that operates on
20 a cooperative basis (within the meaning of section
21 1381 of the Internal Revenue Code of 1986)), for
22 substantial purposes other than that of obtaining or
23 providing medical care,

24 “(2) is established as a permanent entity which
25 receives the active support of its members and col-

1 lects from its members on a periodic basis dues or
2 payments necessary to maintain eligibility for mem-
3 bership in the sponsor, and

4 “(3) does not condition such dues or payments
5 or coverage under the plan on the basis of health
6 status-related factors with respect to the employees
7 of its members (or affiliated members), or the de-
8 pendents of such employees, and does not condition
9 such dues or payments on the basis of group health
10 plan participation.

11 Any sponsor consisting of an association of entities which
12 meet the requirements of paragraphs (1) and (2) shall be
13 deemed to be a sponsor described in this subsection.

14 **“SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH**
15 **PLANS.**

16 “(a) IN GENERAL.—The Secretary shall prescribe by
17 regulation a procedure under which, subject to subsection
18 (b), the Secretary shall certify association health plans
19 which apply for certification as meeting the requirements
20 of this part.

21 “(b) STANDARDS.—Under the procedure prescribed
22 pursuant to subsection (a), the Secretary shall certify an
23 association health plan as meeting the requirements of
24 this part only if the Secretary is satisfied that—

25 “(1) such certification—

1 “(A) is administratively feasible,

2 “(B) is not adverse to the interests of the
3 individuals covered under the plan, and

4 “(C) is protective of the rights and benefits
5 of the individuals covered under the plan, and

6 “(2) the applicable requirements of this part
7 are met (or, upon the date on which the plan is to
8 commence operations, will be met) with respect to
9 the plan.

10 “(c) REQUIREMENTS APPLICABLE TO CERTIFIED
11 PLANS.—An association health plan with respect to which
12 certification under this part is in effect shall meet the ap-
13 plicable requirements of this part, effective on the date
14 of certification (or, if later, on the date on which the plan
15 is to commence operations).

16 “(d) REQUIREMENTS FOR CONTINUED CERTIFI-
17 CATION.—The Secretary may provide by regulation for
18 continued certification under this part, including require-
19 ments relating to any commencement, by an association
20 health plan which has been certified under this part, of
21 a benefit option which does not consist of health insurance
22 coverage.

23 “(e) CLASS CERTIFICATION FOR FULLY-INSURED
24 PLANS.—The Secretary shall establish a class certification
25 procedure for association health plans under which all ben-

1 efits consist of health insurance coverage. Under such pro-
2 cedure, the Secretary shall provide for the granting of cer-
3 tification under this part to the plans in each class of such
4 association health plans upon appropriate filing under
5 such procedure in connection with plans in such class and
6 payment of the prescribed fee under section 807(a).

7 **“SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND**
8 **BOARDS OF TRUSTEES.**

9 “(a) SPONSOR.—The requirements of this subsection
10 are met with respect to an association health plan if—

11 “(1) the sponsor (together with its immediate
12 predecessor, if any) has met (or is deemed under
13 this part to have met) for a continuous period of not
14 less than 3 years ending with the date of the appli-
15 cation for certification under this part, the require-
16 ments of paragraphs (1) and (2) of section 801(b),
17 and

18 “(2) the sponsor meets (or is deemed under this
19 part to meet) the requirements of section 801(b)(3).

20 “(b) BOARD OF TRUSTEES.—The requirements of
21 this subsection are met with respect to an association
22 health plan if the following requirements are met:

23 “(1) FISCAL CONTROL.—The plan is operated,
24 pursuant to a trust agreement, by a board of trust-
25 ees which has complete fiscal control over the plan

1 and which is responsible for all operations of the
2 plan.

3 “(2) RULES OF OPERATION AND FINANCIAL
4 CONTROLS.—The board of trustees has in effect
5 rules of operation and financial controls, based on a
6 3-year plan of operation, adequate to carry out the
7 terms of the plan and to meet all requirements of
8 this title applicable to the plan.

9 “(3) RULES GOVERNING RELATIONSHIP TO
10 PARTICIPATING EMPLOYERS AND TO CONTRAC-
11 TORS.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the members of the board of
14 trustees are individuals selected from individ-
15 uals who are the owners, officers, directors, or
16 employees of the participating employers or who
17 are partners in the participating employers and
18 actively participate in the business.

19 “(B) LIMITATION.—

20 “(i) GENERAL RULE.—Except as pro-
21 vided in clauses (ii) and (iii), no such
22 member is an owner, officer, director, or
23 employee of, or partner in, a contract ad-
24 ministrator or other service provider to the
25 plan.

1 “(ii) LIMITED EXCEPTION FOR PRO-
2 VIDERS OF SERVICES SOLELY ON BEHALF
3 OF THE SPONSOR.—Officers or employees
4 of a sponsor which is a service provider
5 (other than a contract administrator) to
6 the plan may be members of the board if
7 they constitute not more than 25 percent
8 of the membership of the board and they
9 do not provide services to the plan other
10 than on behalf of the sponsor.

11 “(iii) TREATMENT OF PROVIDERS OF
12 MEDICAL CARE.—In the case of a sponsor
13 which is an association whose membership
14 consists primarily of providers of medical
15 care, clause (i) shall not apply in the case
16 of any service provider described in sub-
17 paragraph (A) who is a provider of medical
18 care under the plan.

19 “(C) SOLE AUTHORITY.—The board has
20 sole authority to approve applications for par-
21 ticipation in the plan and to contract with a
22 service provider to administer the day-to-day af-
23 fairs of the plan.

24 “(c) TREATMENT OF FRANCHISE NETWORKS.—In
25 the case of a group health plan which is established and

1 maintained by a franchiser for a franchise network con-
2 sisting of its franchisees—

3 “(1) the requirements of subsection (a) and sec-
4 tion 801(a)(1) shall be deemed met if such require-
5 ments would otherwise be met if the franchiser were
6 deemed to be the sponsor referred to in section
7 801(b), such network were deemed to be an associa-
8 tion described in section 801(b), and each franchisee
9 were deemed to be a member (of the association and
10 the sponsor) referred to in section 801(b), and

11 “(2) the requirements of section 804(a)(1) shall
12 be deemed met.

13 “(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

14 “(1) IN GENERAL.—In the case of a group
15 health plan described in paragraph (2)—

16 “(A) the requirements of subsection (a)
17 and section 801(a)(1) shall be deemed met,

18 “(B) the joint board of trustees shall be
19 deemed a board of trustees with respect to
20 which the requirements of subsection (b) are
21 met, and

22 “(C) the requirements of section 804 shall
23 be deemed met.

24 “(2) REQUIREMENTS.—A group health plan is
25 described in this paragraph if—

1 “(A) the plan is a multiemployer plan,

2 “(B) the plan is in existence on April 1,
3 1997, and would be described in section
4 3(40)(A)(i) but solely for the failure to meet
5 the requirements of section 3(40)(C)(ii) or (to
6 the extent provided in regulations of the Sec-
7 retary) solely for the failure to meet the re-
8 quirements of subparagraph (D) of section
9 3(40), or

10 “(C)(i) the plan is in existence on April 1,
11 1997, has been in existence as of such date for
12 at least 3 years, meets the requirements of
13 paragraphs (2) and (3) of section 801(b), and
14 would be described in section 3(40)(A)(i) but
15 solely for the failure to meet the requirements
16 of subparagraph (C)(i) or (C)(ii), and

17 “(ii) individuals who are members of the
18 plan sponsor—

19 “(I) participate by elections in the or-
20 ganizational governance of the plan spon-
21 sor,

22 “(II) are eligible for appointment as
23 trustee of the plan or for participation in
24 the appointment of trustees of the plan,
25 and

1 “(III) if covered under the plan, have
2 full rights under the plan of a participant
3 in an employee welfare benefit plan.

4 “(e) CERTAIN PLANS NOT MEETING SINGLE EM-
5 PLOYER REQUIREMENT.—

6 “(1) IN GENERAL.—In any case in which the
7 majority of the employees covered under a group
8 health plan are employees of a single employer
9 (within the meaning of clauses (i) and (ii) of section
10 3(40)(B)), if all other employees covered under the
11 plan are employed by employers who are related to
12 such single employer—

13 “(A) the requirements of subsection (a)
14 and section 801(a)(1) shall not apply if such
15 single employer is the sponsor of the plan, and

16 “(B) the requirements of subsection (b)
17 shall be deemed met if the board of trustees is
18 the named fiduciary in connection with the
19 plan.

20 “(2) RELATED EMPLOYERS.—For purposes of
21 paragraph (1), employers are ‘related’ if there is
22 among all such employers a common ownership in-
23 terest or a substantial commonality of business oper-
24 ations based on common suppliers or customers.

1 **“SEC. 804. PARTICIPATION AND COVERAGE REQUIRE-**
2 **MENTS.**

3 “(a) COVERED EMPLOYERS AND INDIVIDUALS.—The
4 requirements of this subsection are met with respect to
5 an association health plan if, under the terms of the
6 plan—

7 “(1) all participating employers must be mem-
8 bers or affiliated members of the sponsor, except
9 that, in the case of a sponsor which is a professional
10 association or other individual-based association, if
11 at least one of the officers, directors, or employees
12 of an employer, or at least one of the individuals
13 who are partners in an employer and who actively
14 participates in the business, is a member or affili-
15 ated member of the sponsor, participating employers
16 may also include such employer, and

17 “(2) all individuals commencing coverage under
18 the plan after certification under this part must
19 be—

20 “(A) active or retired owners (including
21 self-employed individuals), officers, directors, or
22 employees of, or partners in, participating em-
23 ployers, or

24 “(B) the beneficiaries of individuals de-
25 scribed in subparagraph (A).

1 “(b) COVERAGE OF PREVIOUSLY UNINSURED EM-
2 PLOYEES.—The requirements of this subsection are met
3 with respect to an association health plan if, under the
4 terms of the plan, no affiliated member of the sponsor may
5 be offered coverage under the plan as a participating em-
6 ployer unless—

7 “(1) the affiliated member was an affiliated
8 member on the date of certification under this part,
9 or

10 “(2) during the 12-month period preceding the
11 date of the offering of such coverage, the affiliated
12 member has not maintained or contributed to a
13 group health plan with respect to any of its employ-
14 ees who would otherwise be eligible to participate in
15 such association health plan.

16 “(c) INDIVIDUAL MARKET UNAFFECTED.—The re-
17 quirements of this subsection are met with respect to an
18 association health plan if, under the terms of the plan,
19 no participating employer may provide health insurance
20 coverage in the individual market for any employee not
21 covered under the plan which is similar to the coverage
22 contemporaneously provided to employees of the employer
23 under the plan, if such exclusion of the employee from cov-
24 erage under the plan is based on a health status-related
25 factor with respect to the employee and such employee

1 would, but for such exclusion on such basis, be eligible
2 for coverage under the plan.

3 “(d) PROHIBITION OF DISCRIMINATION AGAINST
4 EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICI-
5 PATE.—The requirements of this subsection are met with
6 respect to an association health plan if—

7 “(1) under the terms of the plan, no employer
8 meeting the preceding requirements of this section is
9 excluded as a participating employer, unless—

10 “(A) participation or contribution require-
11 ments of the type referred to in section 2711 of
12 the Public Health Service Act are not met with
13 respect to the excluded employer, or

14 “(B) the excluded employer does not sat-
15 isfy a required minimum level of employment
16 uniformly applicable to participating employers,

17 “(2) the applicable requirements of sections
18 701, 702, and 703 are met with respect to the plan,
19 and

20 “(3) applicable benefit options under the plan
21 are actively marketed to all eligible participating em-
22 ployers.

1 **“SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN**
2 **DOCUMENTS, CONTRIBUTION RATES, AND**
3 **BENEFIT OPTIONS.**

4 “(a) IN GENERAL.—The requirements of this section
5 are met with respect to an association health plan if the
6 following requirements are met:

7 “(1) CONTENTS OF GOVERNING INSTRU-
8 MENTS.—The instruments governing the plan in-
9 clude a written instrument, meeting the require-
10 ments of an instrument required under section
11 402(a)(1), which—

12 “(A) provides that the board of trustees
13 serves as the named fiduciary required for plans
14 under section 402(a)(1) and serves in the ca-
15 pacity of a plan administrator (referred to in
16 section 3(16)(A)),

17 “(B) provides that the sponsor of the plan
18 is to serve as plan sponsor (referred to in sec-
19 tion 3(16)(B)), and

20 “(C) incorporates the requirements of sec-
21 tion 806.

22 “(2) CONTRIBUTION RATES MUST BE NON-
23 DISCRIMINATORY.—

24 “(A) The contribution rates for any par-
25 ticipating employer do not vary significantly on
26 the basis of the claims experience of such em-

1 ployer and do not vary on the basis of the type
2 of business or industry in which such employer
3 is engaged.

4 “(B) Nothing in this title or any other pro-
5 vision of law shall be construed to preclude an
6 association health plan, or a health insurance
7 issuer offering health insurance coverage in
8 connection with an association health plan,
9 from setting contribution rates based on the
10 claims experience of the plan, to the extent con-
11 tribution rates under the plan meet the require-
12 ments of section 702(b).

13 “(3) FLOOR FOR NUMBER OF COVERED INDIV-
14 VIDUALS WITH RESPECT TO CERTAIN PLANS.—If
15 any benefit option under the plan does not consist
16 of health insurance coverage, the plan has as of the
17 beginning of the plan year not fewer than 1,000 par-
18 ticipants and beneficiaries.

19 “(4) REGULATORY REQUIREMENTS.—Such
20 other requirements as the Secretary may prescribe
21 by regulation as necessary to carry out the purposes
22 of this part.

23 “(b) ABILITY OF ASSOCIATION HEALTH PLANS TO
24 DESIGN BENEFIT OPTIONS.—Nothing in this part or any
25 provision of State law (as defined in section 514(c)(1))

1 shall be construed to preclude an association health plan,
2 or a health insurance issuer offering health insurance cov-
3 erage in connection with an association health plan, from
4 exercising its sole discretion in selecting the specific items
5 and services consisting of medical care to be included as
6 benefits under such plan or coverage, except in the case
7 of any law to the extent that it (1) prohibits an exclusion
8 of a specific disease from such coverage, or (2) is not pre-
9 empted under section 731(a)(1) with respect to matters
10 governed by section 711 or 712.

11 **“SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS**
12 **FOR SOLVENCY FOR PLANS PROVIDING**
13 **HEALTH BENEFITS IN ADDITION TO HEALTH**
14 **INSURANCE COVERAGE.**

15 “(a) IN GENERAL.—The requirements of this section
16 are met with respect to an association health plan if—

17 “(1) the benefits under the plan consist solely
18 of health insurance coverage, or

19 “(2) if the plan provides any additional benefit
20 options which do not consist of health insurance cov-
21 erage, the plan—

22 “(A) establishes and maintains reserves
23 with respect to such additional benefit options,
24 in amounts recommended by the qualified actu-
25 ary, consisting of—

1 “(i) a reserve sufficient for unearned
2 contributions,

3 “(ii) a reserve sufficient for benefit li-
4 abilities which have been incurred, which
5 have not been satisfied, and for which risk
6 of loss has not yet been transferred, and
7 for expected administrative costs with re-
8 spect to such benefit liabilities,

9 “(iii) a reserve sufficient for any other
10 obligations of the plan, and

11 “(iv) a reserve sufficient for a margin
12 of error and other fluctuations, taking into
13 account the specific circumstances of the
14 plan,

15 and

16 “(B) establishes and maintains aggregate
17 excess/stop loss insurance and solvency indem-
18 nification, with respect to such additional bene-
19 fit options for which risk of loss has not yet
20 been transferred, as follows:

21 “(i) The plan shall secure aggregate
22 excess/stop loss insurance for the plan with
23 an attachment point which is not greater
24 than 125 percent of expected gross annual
25 claims. The Secretary may by regulation

1 provide for upward adjustments in the
2 amount of such percentage in specified cir-
3 cumstances in which the plan specifically
4 provides for and maintains reserves in ex-
5 cess of the amounts required under sub-
6 paragraph (A).

7 “(ii) The plan shall secure a means of
8 indemnification for any claims which the
9 plan is unable to satisfy by reason of a ter-
10 mination pursuant to section 809(b) (relat-
11 ing to mandatory termination).

12 Any regulations prescribed by the Secretary pursuant to
13 paragraph (2)(B)(i) may allow for such adjustments in the
14 required levels of excess/stop loss insurance as the quali-
15 fied actuary may recommend, taking into account the spe-
16 cific circumstances of the plan.

17 “(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS
18 RESERVES.—The requirements of this subsection are met
19 if the plan establishes and maintains surplus in an amount
20 at least equal to the excess of—

21 “(1) the greater of—

22 “(A) 25 percent of expected incurred
23 claims and expenses for the plan year, or

24 “(B) \$400,000,

25 over

1 “(2) the amount required under subsection
2 (a)(2)(A)(ii).

3 “(c) ADDITIONAL REQUIREMENTS.—In the case of
4 any association health plan described in subsection (a)(2),
5 the Secretary may provide such additional requirements
6 relating to reserves and excess/stop loss insurance as the
7 Secretary considers appropriate. Such requirements may
8 be provided, by regulation or otherwise, with respect to
9 any such plan or any class of such plans.

10 “(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSUR-
11 ANCE.—The Secretary may provide for adjustments to the
12 levels of reserves otherwise required under subsections (a)
13 and (b) with respect to any plan or class of plans to take
14 into account excess/stop loss insurance provided with re-
15 spect to such plan or plans.

16 “(e) ALTERNATIVE MEANS OF COMPLIANCE.—The
17 Secretary may permit an association health plan described
18 in subsection (a)(2) to substitute, for all or part of the
19 requirements of this section, such security, guarantee,
20 hold-harmless arrangement, or other financial arrange-
21 ment as the Secretary determines to be adequate to enable
22 the plan to fully meet all its financial obligations on a
23 timely basis and is otherwise no less protective of the in-
24 terests of participants and beneficiaries than the require-
25 ments for which it is substituted. The Secretary may take

1 into account, for purposes of this subsection, evidence pro-
2 vided by the plan or sponsor which demonstrates an as-
3 sumption of liability with respect to the plan. Such evi-
4 dence may be in the form of a contract of indemnification,
5 lien, bonding, insurance, letter of credit, recourse under
6 applicable terms of the plan in the form of assessments
7 of participating employers, security, or other financial ar-
8 rangement.

9 “(f) EXCESS/STOP LOSS INSURANCE.—For purposes
10 of this section, the term ‘excess/stop loss insurance’
11 means, in connection with an association health plan, a
12 contract under which an insurer (meeting such minimum
13 standards as may be prescribed in regulations of the Sec-
14 retary) provides for payment to the plan with respect to
15 claims under the plan in excess of an amount or amounts
16 specified in such contract.

17 **“SEC. 807. REQUIREMENTS FOR APPLICATION AND RELAT-**
18 **ED REQUIREMENTS.**

19 “(a) FILING FEE.—Under the procedure prescribed
20 pursuant to section 802(a), an association health plan
21 shall pay to the Secretary at the time of filing an applica-
22 tion for certification under this part a filing fee in the
23 amount of \$5,000, which shall be available, to the extent
24 provided in appropriation Acts, to the Secretary for the

1 sole purpose of administering the certification procedures
2 applicable with respect to association health plans.

3 “(b) INFORMATION TO BE INCLUDED IN APPLICA-
4 TION FOR CERTIFICATION.—An application for certifi-
5 cation under this part meets the requirements of this sec-
6 tion only if it includes, in a manner and form prescribed
7 in regulations of the Secretary, at least the following infor-
8 mation:

9 “(1) IDENTIFYING INFORMATION.—The names
10 and addresses of—

11 “(A) the sponsor, and

12 “(B) the members of the board of trustees
13 of the plan.

14 “(2) STATES IN WHICH PLAN INTENDS TO DO
15 BUSINESS.—The States in which participants and
16 beneficiaries under the plan are to be located and
17 the number of them expected to be located in each
18 such State.

19 “(3) BONDING REQUIREMENTS.—Evidence pro-
20 vided by the board of trustees that the bonding re-
21 quirements of section 412 will be met as of the date
22 of the application or (if later) commencement of op-
23 erations.

24 “(4) PLAN DOCUMENTS.—A copy of the docu-
25 ments governing the plan (including any bylaws and

1 trust agreements), the summary plan description,
2 and other material describing the benefits that will
3 be provided to participants and beneficiaries under
4 the plan.

5 “(5) AGREEMENTS WITH SERVICE PROVID-
6 ERS.—A copy of any agreements between the plan
7 and contract administrators and other service pro-
8 viders.

9 “(6) FUNDING REPORT.—In the case of asso-
10 ciation health plans providing benefits options in ad-
11 dition to health insurance coverage, a report setting
12 forth information with respect to such additional
13 benefit options determined as of a date within the
14 120-day period ending with the date of the applica-
15 tion, including the following:

16 “(A) RESERVES.—A statement, certified
17 by the board of trustees of the plan, and a
18 statement of actuarial opinion, signed by a
19 qualified actuary, that all applicable require-
20 ments of section 806 are or will be met in ac-
21 cordance with regulations which the Secretary
22 shall prescribe.

23 “(B) ADEQUACY OF CONTRIBUTION
24 RATES.—A statement of actuarial opinion,
25 signed by a qualified actuary, which sets forth

1 a description of the extent to which contribution
2 rates are adequate to provide for the payment
3 of all obligations and the maintenance of re-
4 quired reserves under the plan for the 12-
5 month period beginning with such date within
6 such 120-day period, taking into account the
7 expected coverage and experience of the plan. If
8 the contribution rates are not fully adequate,
9 the statement of actuarial opinion shall indicate
10 the extent to which the rates are inadequate
11 and the changes needed to ensure adequacy.

12 “(C) CURRENT AND PROJECTED VALUE OF
13 ASSETS AND LIABILITIES.—A statement of ac-
14 tuarial opinion signed by a qualified actuary,
15 which sets forth the current value of the assets
16 and liabilities accumulated under the plan and
17 a projection of the assets, liabilities, income,
18 and expenses of the plan for the 12-month pe-
19 riod referred to in subparagraph (B). The in-
20 come statement shall identify separately the
21 plan’s administrative expenses and claims.

22 “(D) COSTS OF COVERAGE TO BE
23 CHARGED AND OTHER EXPENSES.—A state-
24 ment of the costs of coverage to be charged, in-
25 cluding an itemization of amounts for adminis-

1 tration, reserves, and other expenses associated
2 with the operation of the plan.

3 “(E) OTHER INFORMATION.—Any other
4 information which may be prescribed in regula-
5 tions of the Secretary as necessary to carry out
6 the purposes of this part.

7 “(c) FILING NOTICE OF CERTIFICATION WITH
8 STATES.—A certification granted under this part to an
9 association health plan shall not be effective unless written
10 notice of such certification is filed with the applicable
11 State authority of each State in which at least 25 percent
12 of the participants and beneficiaries under the plan are
13 located. For purposes of this subsection, an individual
14 shall be considered to be located in the State in which a
15 known address of such individual is located or in which
16 such individual is employed.

17 “(d) NOTICE OF MATERIAL CHANGES.—In the case
18 of any association health plan certified under this part,
19 descriptions of material changes in any information which
20 was required to be submitted with the application for the
21 certification under this part shall be filed in such form
22 and manner as shall be prescribed in regulations of the
23 Secretary. The Secretary may require by regulation prior
24 notice of material changes with respect to specified mat-

1 ters which might serve as the basis for suspension or rev-
2 ocation of the certification.

3 “(e) REPORTING REQUIREMENTS FOR CERTAIN AS-
4 SOCIATION HEALTH PLANS.—An association health plan
5 certified under this part which provides benefit options in
6 addition to health insurance coverage for such plan year
7 shall meet the requirements of section 103 by filing an
8 annual report under such section which shall include infor-
9 mation described in subsection (b)(6) with respect to the
10 plan year and, notwithstanding section 104(a)(1)(A), shall
11 be filed not later than 90 days after the close of the plan
12 year (or on such later date as may be prescribed by the
13 Secretary).

14 “(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The
15 board of trustees of each association health plan which
16 provides benefits options in addition to health insurance
17 coverage and which is applying for certification under this
18 part or is certified under this part shall engage, on behalf
19 of all participants and beneficiaries, a qualified actuary
20 who shall be responsible for the preparation of the mate-
21 rials comprising information necessary to be submitted by
22 a qualified actuary under this part. The qualified actuary
23 shall utilize such assumptions and techniques as are nec-
24 essary to enable such actuary to form an opinion as to

1 whether the contents of the matters reported under this
2 part—

3 “(1) are in the aggregate reasonably related to
4 the experience of the plan and to reasonable expecta-
5 tions, and

6 “(2) represent such actuary’s best estimate of
7 anticipated experience under the plan.

8 The opinion by the qualified actuary shall be made with
9 respect to, and shall be made a part of, the annual report.

10 **“SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TER-**
11 **MINATION.**

12 “Except as provided in section 809(b), an association
13 health plan which is or has been certified under this part
14 may terminate (upon or at any time after cessation of ac-
15 cruals in benefit liabilities) only if the board of trustees—

16 “(1) not less than 60 days before the proposed
17 termination date, provides to the participants and
18 beneficiaries a written notice of intent to terminate
19 stating that such termination is intended and the
20 proposed termination date,

21 “(2) develops a plan for winding up the affairs
22 of the plan in connection with such termination in
23 a manner which will result in timely payment of all
24 benefits for which the plan is obligated, and

1 “(3) submits such plan in writing to the Sec-
2 retary.

3 Actions required under this section shall be taken in such
4 form and manner as may be prescribed in regulations of
5 the Secretary.

6 **“SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMI-**
7 **NATION.**

8 “(a) ACTIONS TO AVOID DEPLETION OF RE-
9 SERVES.—An association health plan which is certified
10 under this part and which provides benefits other than
11 health insurance coverage shall continue to meet the re-
12 quirements of section 806, irrespective of whether such
13 certification continues in effect. The board of trustees of
14 such plan shall determine quarterly whether the require-
15 ments of section 806 are met. In any case in which the
16 board determines that there is reason to believe that there
17 is or will be a failure to meet such requirements, or the
18 Secretary makes such a determination and so notifies the
19 board, the board shall immediately notify the qualified ac-
20 tuary engaged by the plan, and such actuary shall, not
21 later than the end of the next following month, make such
22 recommendations to the board for corrective action as the
23 actuary determines necessary to ensure compliance with
24 section 806. Not later than 30 days after receiving from
25 the actuary recommendations for corrective actions, the

1 board shall notify the Secretary (in such form and manner
2 as the Secretary may prescribe by regulation) of such rec-
3 ommendations of the actuary for corrective action, to-
4 gether with a description of the actions (if any) that the
5 board has taken or plans to take in response to such rec-
6 ommendations. The board shall thereafter report to the
7 Secretary, in such form and frequency as the Secretary
8 may specify to the board, regarding corrective action taken
9 by the board until the requirements of section 806 are
10 met.

11 “(b) MANDATORY TERMINATION.—In any case in
12 which—

13 “(1) the Secretary has been notified under sub-
14 section (a) of a failure of an association health plan
15 which is or has been certified under this part and
16 is described in section 806(a)(2) to meet the require-
17 ments of section 806 and has not been notified by
18 the board of trustees of the plan that corrective ac-
19 tion has restored compliance with such require-
20 ments, and

21 “(2) the Secretary determines that there is a
22 reasonable expectation that the plan will continue to
23 fail to meet the requirements of section 806,
24 the board of trustees of the plan shall, at the direction
25 of the Secretary, terminate the plan and, in the course

1 of the termination, take such actions as the Secretary may
2 require, including satisfying any claims referred to in sec-
3 tion 806(a)(2)(B)(ii) and recovering for the plan any li-
4 ability under subsection (a)(2)(B)(ii) or (e) of section 806,
5 as necessary to ensure that the affairs of the plan will
6 be, to the maximum extent possible, wound up in a man-
7 ner which will result in timely provision of all benefits for
8 which the plan is obligated.

9 “(c) GUARANTEE FUND.—In any case in which
10 claims against an association health plan terminated
11 under subsection (b) remain outstanding after all actions
12 required under subsection (b) have been undertaken in
13 connection with the termination, the Secretary shall assess
14 all ongoing association health plans which are or have been
15 certified under this part and are described in section
16 806(a)(2) in an amount—

17 “(1) expressed as a uniform percentage of
18 claims paid by such plans per year for coverage,
19 other than health insurance coverage, commencing
20 with the last plan year ending before the date of the
21 termination, and

22 “(2) equal, in the aggregate, to the total
23 amount of such outstanding claims,
24 except that any such assessment shall not exceed 2 percent
25 per year. The Secretary shall promptly pay such outstand-

1 ing claims with the amounts assessed pursuant to this
2 subsection. The Secretary shall deposit and hold such as-
3 sessments in a guarantee fund which shall be established
4 by the Secretary for payment of such claims until such
5 payment of such claims has been completed. The Secretary
6 may invest amounts of the fund in such obligations as the
7 Secretary considers appropriate.

8 **“SEC. 810. SPECIAL RULES FOR CHURCH PLANS.**

9 “(a) ELECTION FOR CHURCH PLANS.—Notwith-
10 standing section 4(b)(2), if a church, a convention or asso-
11 ciation of churches, or an organization described in section
12 3(33)(C)(i) maintains a church plan which is a group
13 health plan (as defined in section 733(a)(1)), and such
14 church, convention, association, or organization makes an
15 election with respect to such plan under this subsection
16 (in such form and manner as the Secretary may by regula-
17 tion prescribe), then the provisions of this section shall
18 apply to such plan, with respect to benefits provided under
19 such plan consisting of medical care, as if section 4(b)(2)
20 did not contain an exclusion for church plans. Nothing in
21 this paragraph shall be construed to render any other sec-
22 tion of this title applicable to church plans, except to the
23 extent that such other section is incorporated by reference
24 in this section.

25 “(b) EFFECT OF ELECTION.—

1 “(1) PREEMPTION OF STATE INSURANCE LAWS
2 REGULATING COVERED CHURCH PLANS.—Subject to
3 paragraphs (2) and (3), this section shall supersede
4 any and all State laws which regulate insurance in-
5 sofar as they may now or hereafter regulate church
6 plans to which this section applies or trusts estab-
7 lished under such church plans.

8 “(2) GENERAL STATE INSURANCE REGULATION
9 UNAFFECTED.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B) and paragraph (3), nothing
12 in this section shall be construed to exempt or
13 relieve any person from any provision of State
14 law which regulates insurance.

15 “(B) CHURCH PLANS NOT TO BE DEEMED
16 INSURANCE COMPANIES OR INSURERS.—Neither
17 a church plan to which this section applies, nor
18 any trust established under such a church plan,
19 shall be deemed to be an insurance company or
20 other insurer or to be engaged in the business
21 of insurance for purposes of any State law pur-
22 porting to regulate insurance companies or in-
23 surance contracts.

24 “(3) PREEMPTION OF CERTAIN STATE LAWS
25 RELATING TO PREMIUM RATE REGULATION AND

1 BENEFIT MANDATES.—The provisions of subsections
2 (a)(2)(B) and (b) of section 805 shall apply with re-
3 spect to a church plan to which this section applies
4 in the same manner and to the same extent as such
5 provisions apply with respect to association health
6 plans.

7 “(4) DEFINITIONS.—For purposes of this sub-
8 section—

9 “(A) STATE LAW.—The term ‘State law’
10 includes all laws, decisions, rules, regulations,
11 or other State action having the effect of law,
12 of any State. A law of the United States appli-
13 cable only to the District of Columbia shall be
14 treated as a State law rather than a law of the
15 United States.

16 “(B) STATE.—The term ‘State’ includes a
17 State, any political subdivision thereof, or any
18 agency or instrumentality of either, which
19 purports to regulate, directly or indirectly, the
20 terms and conditions of church plans covered by
21 this section.

22 “(c) REQUIREMENTS FOR COVERED CHURCH
23 PLANS.—

24 “(1) FIDUCIARY RULES AND EXCLUSIVE PUR-
25 POSE.—A fiduciary shall discharge his duties with

1 respect to a church plan to which this section ap-
2 plies—

3 “(A) for the exclusive purpose of:

4 “(i) providing benefits to participants
5 and their beneficiaries; and

6 “(ii) defraying reasonable expenses of
7 administering the plan;

8 “(B) with the care, skill, prudence and dili-
9 gence under the circumstances then prevailing
10 that a prudent man acting in a like capacity
11 and familiar with such matters would use in the
12 conduct of an enterprise of a like character and
13 with like aims; and

14 “(C) in accordance with the documents
15 and instruments governing the plan.

16 The requirements of this paragraph shall not be
17 treated as not satisfied solely because the plan as-
18 sets are commingled with other church assets, to the
19 extent that such plan assets are separately ac-
20 counted for.

21 “(2) CLAIMS PROCEDURE.—In accordance with
22 regulations of the Secretary, every church plan to
23 which this section applies shall—

24 “(A) provide adequate notice in writing to
25 any participant or beneficiary whose claim for

1 benefits under the plan has been denied, setting
2 forth the specific reasons for such denial, writ-
3 ten in a manner calculated to be understood by
4 the participant;

5 “(B) afford a reasonable opportunity to
6 any participant whose claim for benefits has
7 been denied for a full and fair review by the ap-
8 propriate fiduciary of the decision denying the
9 claim; and

10 “(C) provide a written statement to each
11 participant describing the procedures estab-
12 lished pursuant to this paragraph.

13 “(3) ANNUAL STATEMENTS.—In accordance
14 with regulations of the Secretary, every church plan
15 to which this section applies shall file with the Sec-
16 retary an annual statement—

17 “(A) stating the names and addresses of
18 the plan and of the church, convention, or asso-
19 ciation maintaining the plan (and its principal
20 place of business);

21 “(B) certifying that it is a church plan to
22 which this section applies and that it complies
23 with the requirements of paragraphs (1) and
24 (2);

1 “(C) identifying the States in which par-
2 ticipants and beneficiaries under the plan are or
3 likely will be located during the 1-year period
4 covered by the statement; and

5 “(D) containing a copy of a statement of
6 actuarial opinion signed by a qualified actuary
7 that the plan maintains capital, reserves, insur-
8 ance, other financial arrangements, or any com-
9 bination thereof adequate to enable the plan to
10 fully meet all of its financial obligations on a
11 timely basis.

12 “(4) DISCLOSURE.—At the time that the an-
13 nual statement is filed by a church plan with the
14 Secretary pursuant to paragraph (3), a copy of such
15 statement shall be made available by the Secretary
16 to the State insurance commissioner (or similar offi-
17 cial) of any State. The name of each church plan
18 and sponsoring organization filing an annual state-
19 ment in compliance with paragraph (3) shall be pub-
20 lished annually in the Federal Register.

21 “(c) ENFORCEMENT.—The Secretary may enforce
22 the provisions of this section in a manner consistent with
23 section 502, to the extent applicable with respect to ac-
24 tions under section 502(a)(5), and with section 3(33)(D),
25 except that, other than for the purpose of seeking a tem-

1 porary restraining order, a civil action may be brought
2 with respect to the plan's failure to meet any requirement
3 of this section only if the plan fails to correct its failure
4 within the correction period described in section 3(33)(D).
5 The other provisions of part 5 (except sections 501(a),
6 503, 512, 514, and 515) shall apply with respect to the
7 enforcement and administration of this section.

8 “(d) DEFINITIONS AND OTHER RULES.—For pur-
9 poses of this section—

10 “(1) IN GENERAL.—Except as otherwise pro-
11 vided in this section, any term used in this section
12 which is defined in any provision of this title shall
13 have the definition provided such term by such pro-
14 vision.

15 “(2) SEMINARY STUDENTS.—Seminary students
16 who are enrolled in an institution of higher learning
17 described in section 3(33)(C)(iv) and who are treat-
18 ed as participants under the terms of a church plan
19 to which this section applies shall be deemed to be
20 employees as defined in section 3(6) if the number
21 of such students constitutes an insignificant portion
22 of the total number of individuals who are treated
23 as participants under the terms of the plan.

24 **“SEC. 811. DEFINITIONS AND RULES OF CONSTRUCTION.**

25 “(a) DEFINITIONS.—For purposes of this part—

1 “(1) GROUP HEALTH PLAN.—The term ‘group
2 health plan’ has the meaning provided in section
3 733(a)(1).

4 “(2) MEDICAL CARE.—The term ‘medical care’
5 has the meaning provided in section 733(a)(2).

6 “(3) HEALTH INSURANCE COVERAGE.—The
7 term ‘health insurance coverage’ has the meaning
8 provided in section 733(b)(1).

9 “(4) HEALTH INSURANCE ISSUER.—The term
10 ‘health insurance issuer’ has the meaning provided
11 in section 733(b)(2).

12 “(5) HEALTH STATUS-RELATED FACTOR.—The
13 term ‘health status-related factor’ has the meaning
14 provided in section 733(d)(2).

15 “(6) INDIVIDUAL MARKET.—

16 “(A) IN GENERAL.—The term ‘individual
17 market’ means the market for health insurance
18 coverage offered to individuals other than in
19 connection with a group health plan.

20 “(B) TREATMENT OF VERY SMALL
21 GROUPS.—

22 “(i) IN GENERAL.—Subject to clause
23 (ii), such term includes coverage offered in
24 connection with a group health plan that
25 has fewer than 2 participants as current

1 employees or participants described in sec-
2 tion 732(d)(3) on the first day of the plan
3 year.

4 “(ii) STATE EXCEPTION.—Clause (i)
5 shall not apply in the case of health insur-
6 ance coverage offered in a State if such
7 State regulates the coverage described in
8 such clause in the same manner and to the
9 same extent as coverage in the small group
10 market (as defined in section 2791(e)(5) of
11 the Public Health Service Act) is regulated
12 by such State.

13 “(7) PARTICIPATING EMPLOYER.—The term
14 ‘participating employer’ means, in connection with
15 an association health plan, any employer, if any indi-
16 vidual who is an employee of such employer, a part-
17 ner in such employer, or a self-employed individual
18 who is such employer (or any dependent, as defined
19 under the terms of the plan, of such individual) is
20 or was covered under such plan in connection with
21 the status of such individual as such an employee,
22 partner, or self-employed individual in relation to the
23 plan.

24 “(8) APPLICABLE STATE AUTHORITY.—The
25 term ‘applicable State authority’ means, with respect

1 to a health insurance issuer in a State, the State in-
2 surance commissioner or official or officials des-
3 ignated by the State to enforce the requirements of
4 title XXVII of the Public Health Service Act for the
5 State involved with respect to such issuer.

6 “(9) QUALIFIED ACTUARY.—The term ‘quali-
7 fied actuary’ means an individual who is a member
8 of the American Academy of Actuaries or meets
9 such reasonable standards and qualifications as the
10 Secretary may provide by regulation.

11 “(10) AFFILIATED MEMBER.—The term ‘affili-
12 ated member’ means, in connection with a sponsor,
13 a person eligible to be a member of the sponsor or,
14 in the case of a sponsor with member associations,
15 a person who is a member, or is eligible to be a
16 member, of a member association.

17 “(b) RULES OF CONSTRUCTION.—

18 “(1) EMPLOYERS AND EMPLOYEES.—For pur-
19 poses of determining whether a plan, fund, or pro-
20 gram is an employee welfare benefit plan which is an
21 association health plan, and for purposes of applying
22 this title in connection with such plan, fund, or pro-
23 gram so determined to be such an employee welfare
24 benefit plan—

1 “(A) in the case of a partnership, the term
2 ‘employer’ (as defined in section (3)(5)) in-
3 cludes the partnership in relation to the part-
4 ners, and the term ‘employee’ (as defined in
5 section (3)(6)) includes any partner in relation
6 to the partnership, and

7 “(B) in the case of a self-employed individ-
8 ual, the term ‘employer’ (as defined in section
9 3(5)) and the term ‘employee’ (as defined in
10 section 3(6)) shall include such individual.

11 “(2) PLANS, FUNDS, AND PROGRAMS TREATED
12 AS EMPLOYEE WELFARE BENEFIT PLANS.—In the
13 case of any plan, fund, or program which was estab-
14 lished or is maintained for the purpose of providing
15 medical care (through the purchase of insurance or
16 otherwise) for employees (or their dependents) cov-
17 ered thereunder and which demonstrates to the Sec-
18 retary that all requirements for certification under
19 this part would be met with respect to such plan,
20 fund, or program if such plan, fund, or program
21 were a group health plan, such plan, fund, or pro-
22 gram shall be treated for purposes of this title as an
23 employee welfare benefit plan on and after the date
24 of such demonstration.”.

1 (b) CONFORMING AMENDMENTS TO PREEMPTION
2 RULES.—

3 (1) Section 514(b)(6) of such Act (29 U.S.C.
4 1144(b)(6)) is amended by adding at the end the
5 following new subparagraph:

6 “(E) The preceding subparagraphs of this paragraph
7 do not apply with respect to any State law in the case
8 of an association health plan which is certified under part
9 8.”.

10 (2) Section 514 of such Act (29 U.S.C. 1144)
11 is amended—

12 (A) in subsection (b)(4), by striking “Sub-
13 section (a)” and inserting “Subsections (a) and
14 (d)”;

15 (B) in subsection (b)(5), by striking “sub-
16 section (a)” in subparagraph (A) and inserting
17 “subsection (a) of this section and subsections
18 (a)(2)(B) and (b) of section 805”, and by strik-
19 ing “subsection (a)” in subparagraph (B) and
20 inserting “subsection (a) of this section or sub-
21 section (a)(2)(B) or (b) of section 805”;

22 (C) by redesignating subsection (d) as sub-
23 section (e); and

24 (D) by inserting after subsection (c) the
25 following new subsection:

1 “(d)(1) Except as provided in subsection (b)(4), the
2 provisions of this title shall supersede any and all State
3 laws insofar as they may now or hereafter preclude a
4 health insurance issuer from offering health insurance cov-
5 erage in connection with an association health plan which
6 is certified under part 8.

7 “(2) Except as provided in paragraphs (4) and (5)
8 of subsection (b) of this section—

9 “(A) In any case in which health insurance cov-
10 erage of any policy type is offered under an associa-
11 tion health plan certified under part 8 to a partici-
12 pating employer operating in such State, the provi-
13 sions of this title shall supersede any and all laws
14 of such State insofar as they may preclude a health
15 insurance issuer from offering health insurance cov-
16 erage of the same policy type to other employers op-
17 erating in the State which are eligible for coverage
18 under such association health plan, whether or not
19 such other employers are participating employers in
20 such plan.

21 “(B) In any case in which health insurance cov-
22 erage of any policy type is offered under an associa-
23 tion health plan in a State and the filing, with the
24 applicable State authority, of the policy form in con-
25 nection with such policy type is approved by such

1 State authority, the provisions of this title shall su-
2 persede any and all laws of any other State in which
3 health insurance coverage of such type is offered, in-
4 sofar as they may preclude, upon the filing in the
5 same form and manner of such policy form with the
6 applicable State authority in such other State, the
7 approval of the filing in such other State.

8 “(3) For additional provisions relating to association
9 health plans, see subsections (a)(2)(B) and (b) of section
10 805.

11 “(4) For purposes of this subsection, the term ‘asso-
12 ciation health plan’ has the meaning provided in section
13 801(a), and the terms ‘health insurance coverage’, ‘par-
14 ticipating employer’, and ‘health insurance issuer’ have
15 the meanings provided such terms in section 811, respec-
16 tively.”.

17 (3) Section 514(b)(6)(A) of such Act (29
18 U.S.C. 1144(b)(6)(A)) is amended—

19 (A) in clause (i)(II), by striking “and” at
20 the end;

21 (B) in clause (ii), by inserting “and which
22 does not provide medical care (within the mean-
23 ing of section 733(a)(2)),” after “arrange-
24 ment,” and by striking “title.” and inserting
25 “title, and”; and

1 (C) by adding at the end the following new
2 clause:

3 “(iii) subject to subparagraph (E), in the case
4 of any other employee welfare benefit plan which is
5 a multiple employer welfare arrangement and which
6 provides medical care (within the meaning of section
7 733(a)(2)), any law of any State which regulates in-
8 surance may apply.”.

9 (c) PLAN SPONSOR.—Section 3(16)(B) of such Act
10 (29 U.S.C. 102(16)(B)) is amended by adding at the end
11 the following new sentence: “Such term also includes a
12 person serving as the sponsor of an association health plan
13 under part 8.”.

14 (d) SAVINGS CLAUSE.—Section 731(c) of such Act
15 is amended by inserting “or part 8” after “this part”.

16 (e) CLERICAL AMENDMENT.—The table of contents
17 in section 1 of the Employee Retirement Income Security
18 Act of 1974 is amended by inserting after the item relat-
19 ing to section 734 the following new items:

“PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

“Sec. 801. Association health plans.

“Sec. 802. Certification of association health plans.

“Sec. 803. Requirements relating to sponsors and boards of trustees.

“Sec. 804. Participation and coverage requirements.

“Sec. 805. Other requirements relating to plan documents, contribution rates,
and benefit options.

“Sec. 806. Maintenance of reserves and provisions for solvency for plans pro-
viding health benefits in addition to health insurance coverage.

“Sec. 807. Requirements for application and related requirements.

“Sec. 808. Notice requirements for voluntary termination.

“Sec. 809. Corrective actions and mandatory termination.

“Sec. 810. Special rules for church plans.

“Sec. 811. Definitions and rules of construction.”

1 **SEC. 5303. CLARIFICATION OF TREATMENT OF SINGLE EM-**
2 **PLOYER ARRANGEMENTS.**

3 Section 3(40)(B) of the Employee Retirement Income
4 Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amend-
5 ed—

6 (1) in clause (i), by inserting “for any plan year
7 of any such plan, or any fiscal year of any such
8 other arrangement;” after “single employer”, and by
9 inserting “during such year or at any time during
10 the preceding 1-year period” after “control group”;

11 (2) in clause (iii)—

12 (A) by striking “common control shall not
13 be based on an interest of less than 25 percent”
14 and inserting “an interest of greater than 25
15 percent may not be required as the minimum
16 interest necessary for common control”; and

17 (B) by striking “similar to” and inserting
18 “consistent and coextensive with”;

19 (3) by redesignating clauses (iv) and (v) as
20 clauses (v) and (vi), respectively; and

21 (4) by inserting after clause (iii) the following
22 new clause:

23 “(iv) in determining, after the application of
24 clause (i), whether benefits are provided to employ-

1 ees of two or more employers, the arrangement shall
2 be treated as having only 1 participating employer
3 if, after the application of clause (i), the number of
4 individuals who are employees and former employees
5 of any one participating employer and who are cov-
6 ered under the arrangement is greater than 75 per-
7 cent of the aggregate number of all individuals who
8 are employees or former employees of participating
9 employers and who are covered under the arrange-
10 ment,”.

11 **SEC. 5304. CLARIFICATION OF TREATMENT OF CERTAIN**
12 **COLLECTIVELY BARGAINED ARRANGE-**
13 **MENTS.**

14 (a) IN GENERAL.—Section 3(40)(A)(i) of the Em-
15 ployee Retirement Income Security Act of 1974 (29
16 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

17 “(i)(I) under or pursuant to one or more collec-
18 tive bargaining agreements which are reached pursu-
19 ant to collective bargaining described in section 8(d)
20 of the National Labor Relations Act (29 U.S.C.
21 158(d)) or paragraph Fourth of section 2 of the
22 Railway Labor Act (45 U.S.C. 152, paragraph
23 Fourth) or which are reached pursuant to labor-
24 management negotiations under similar provisions of

1 State public employee relations laws, and (II) in ac-
2 cordance with subparagraphs (C), (D), and (E),”.

3 (b) LIMITATIONS.—Section 3(40) of such Act (29
4 U.S.C. 1002(40)) is amended by adding at the end the
5 following new subparagraphs:

6 “(C) For purposes of subparagraph (A)(i)(II), a plan
7 or other arrangement shall be treated as established or
8 maintained in accordance with this subparagraph only if
9 the following requirements are met:

10 “(i) The plan or other arrangement, and the
11 employee organization or any other entity sponsoring
12 the plan or other arrangement, do not—

13 “(I) utilize the services of any licensed in-
14 surance agent or broker for soliciting or enroll-
15 ing employers or individuals as participating
16 employers or covered individuals under the plan
17 or other arrangement; or

18 “(II) pay a commission or any other type
19 of compensation to a person, other than a full
20 time employee of the employee organization (or
21 a member of the organization to the extent pro-
22 vided in regulations of the Secretary), that is
23 related either to the volume or number of em-
24 ployers or individuals solicited or enrolled as
25 participating employers or covered individuals

1 under the plan or other arrangement, or to the
2 dollar amount or size of the contributions made
3 by participating employers or covered individ-
4 uals to the plan or other arrangement;
5 except to the extent that the services used by the
6 plan, arrangement, organization, or other entity con-
7 sist solely of preparation of documents necessary for
8 compliance with the reporting and disclosure re-
9 quirements of part 1 or administrative, investment,
10 or consulting services unrelated to solicitation or en-
11 rollment of covered individuals.

12 “(ii) As of the end of the preceding plan year,
13 the number of covered individuals under the plan or
14 other arrangement who are identified to the plan or
15 arrangement and who are neither—

16 “(I) employed within a bargaining unit
17 covered by any of the collective bargaining
18 agreements with a participating employer (nor
19 covered on the basis of an individual’s employ-
20 ment in such a bargaining unit); nor

21 “(II) present employees (or former employ-
22 ees who were covered while employed) of the
23 sponsoring employee organization, of an em-
24 ployer who is or was a party to any of the col-
25 lective bargaining agreements, or of the plan or

1 other arrangement or a related plan or arrange-
2 ment (nor covered on the basis of such present
3 or former employment);

4 does not exceed 15 percent of the total number of
5 individuals who are covered under the plan or ar-
6 rangement and who are present or former employees
7 who are or were covered under the plan or arrange-
8 ment pursuant to a collective bargaining agreement
9 with a participating employer. The requirements of
10 the preceding provisions of this clause shall be treat-
11 ed as satisfied if, as of the end of the preceding plan
12 year, such covered individuals are comprised solely
13 of individuals who were covered individuals under
14 the plan or other arrangement as of the date of the
15 enactment of the Expansion of Portability and
16 Health Insurance Coverage Act of 1997 and, as of
17 the end of the preceding plan year, the number of
18 such covered individuals does not exceed 25 percent
19 of the total number of present and former employees
20 enrolled under the plan or other arrangement.

21 “(iii) The employee organization or other entity
22 sponsoring the plan or other arrangement certifies
23 to the Secretary each year, in a form and manner
24 which shall be prescribed in regulations of the Sec-

1 retary that the plan or other arrangement meets the
2 requirements of clauses (i) and (ii).

3 “(D) For purposes of subparagraph (A)(i)(II), a plan
4 or arrangement shall be treated as established or main-
5 tained in accordance with this subparagraph only if—

6 “(i) all of the benefits provided under the plan
7 or arrangement consist of health insurance coverage;
8 or

9 “(ii)(I) the plan or arrangement is a multiem-
10 ployer plan; and

11 “(II) the requirements of clause (B) of the pro-
12 viso to clause (5) of section 302(c) of the Labor
13 Management Relations Act, 1947 (29 U.S.C.
14 186(c)) are met with respect to such plan or other
15 arrangement.

16 “(E) For purposes of subparagraph (A)(i)(II), a plan
17 or arrangement shall be treated as established or main-
18 tained in accordance with this subparagraph only if—

19 “(i) the plan or arrangement is in effect as of
20 the date of the enactment of the Expansion of Port-
21 ability and Health Insurance Coverage Act of 1997,
22 or

23 “(ii) the employee organization or other entity
24 sponsoring the plan or arrangement—

1 “(I) has been in existence for at least 3
2 years or is affiliated with another employee or-
3 ganization which has been in existence for at
4 least 3 years, or

5 “(II) demonstrates to the satisfaction of
6 the Secretary that the requirements of subpara-
7 graphs (C) and (D) are met with respect to the
8 plan or other arrangement.”.

9 (c) CONFORMING AMENDMENTS TO DEFINITIONS OF
10 PARTICIPANT AND BENEFICIARY.—Section 3(7) of such
11 Act (29 U.S.C. 1002(7)) is amended by adding at the end
12 the following new sentence: “Such term includes an indi-
13 vidual who is a covered individual described in paragraph
14 (40)(C)(ii).”.

15 **SEC. 5305. ENFORCEMENT PROVISIONS RELATING TO ASSO-**
16 **CIATION HEALTH PLANS.**

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL
MISREPRESENTATIONS.—Section 501 of the Employee
Retirement Income Security Act of 1974 (29 U.S.C. 1131)
is amended—

(1) by inserting “(a)” after “SEC. 501.”; and

(2) by adding at the end the following new sub-

section:

24 “(b) Any person who, either willfully or with willful
25 blindness, falsely represents, to any employee, any employ-

1 ee's beneficiary, any employer, the Secretary, or any State,
2 a plan or other arrangement established or maintained for
3 the purpose of offering or providing any benefit described
4 in section 3(1) to employees or their beneficiaries as—

5 “(1) being an association health plan which has
6 been certified under part 8;

7 “(2) having been established or maintained
8 under or pursuant to one or more collective bargain-
9 ing agreements which are reached pursuant to col-
10 lective bargaining described in section 8(d) of the
11 National Labor Relations Act (29 U.S.C. 158(d)) or
12 paragraph Fourth of section 2 of the Railway Labor
13 Act (45 U.S.C. 152, paragraph Fourth) or which are
14 reached pursuant to labor-management negotiations
15 under similar provisions of State public employee re-
16 lations laws; or

17 “(3) being a plan or arrangement with respect
18 to which the requirements of subparagraph (C), (D),
19 or (E) of section 3(40) are met;

20 shall, upon conviction, be imprisoned not more than five
21 years, be fined under title 18, United States Code, or
22 both.”.

23 (b) CEASE ACTIVITIES ORDERS.—Section 502 of
24 such Act (29 U.S.C. 1132) is amended by adding at the
25 end the following new subsection:

1 “(n)(1) Subject to paragraph (2), upon application
2 by the Secretary showing the operation, promotion, or
3 marketing of an association health plan (or similar ar-
4 rangement providing benefits consisting of medical care
5 (as defined in section 733(a)(2))) that—

6 “(A) is not certified under part 8, is subject
7 under section 514(b)(6) to the insurance laws of any
8 State in which the plan or arrangement offers or
9 provides benefits, and is not licensed, registered, or
10 otherwise approved under the insurance laws of such
11 State; or

12 “(B) is an association health plan certified
13 under part 8 and is not operating in accordance with
14 the requirements under part 8 for such certification,
15 a district court of the United States shall enter an order
16 requiring that the plan or arrangement cease activities.

17 “(2) Paragraph (1) shall not apply in the case of an
18 association health plan or other arrangement if the plan
19 or arrangement shows that—

20 “(A) all benefits under it referred to in para-
21 graph (1) consist of health insurance coverage; and

22 “(B) with respect to each State in which the
23 plan or arrangement offers or provides benefits, the
24 plan or arrangement is operating in accordance with

1 applicable State laws that are not superseded under
2 section 514.

3 “(3) The court may grant such additional equitable
4 relief, including any relief available under this title, as it
5 deems necessary to protect the interests of the public and
6 of persons having claims for benefits against the plan.”.

7 (c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—
8 Section 503 of such Act (29 U.S.C. 1133) is amended by
9 adding at the end (after and below paragraph (2)) the fol-
10 lowing new sentence:

11 “The terms of each association health plan which is or
12 has been certified under part 8 shall require the board
13 of trustees or the named fiduciary (as applicable) to en-
14 sure that the requirements of this section are met in con-
15 nection with claims filed under the plan.”.

16 **SEC. 5306. COOPERATION BETWEEN FEDERAL AND STATE**
17 **AUTHORITIES.**

18 Section 506 of the Employee Retirement Income Se-
19 curity Act of 1974 (29 U.S.C. 1136) is amended by adding
20 at the end the following new subsection:

21 “(c) RESPONSIBILITY OF STATES WITH RESPECT TO
22 ASSOCIATION HEALTH PLANS.—

23 “(1) AGREEMENTS WITH STATES.—A State
24 may enter into an agreement with the Secretary for
25 delegation to the State of some or all of the Sec-

1 retary's authority under sections 502 and 504 to en-
2 force the requirements for certification under part 8.
3 The Secretary shall enter into the agreement if the
4 Secretary determines that the delegation provided
5 for therein would not result in a lower level or qual-
6 ity of enforcement of the provisions of this title.

7 “(2) DELEGATIONS.—Any department, agency,
8 or instrumentality of a State to which authority is
9 delegated pursuant to an agreement entered into
10 under this paragraph may, if authorized under State
11 law and to the extent consistent with such agree-
12 ment, exercise the powers of the Secretary under
13 this title which relate to such authority.

14 “(3) RECOGNITION OF PRIMARY DOMICILE
15 STATE.—In entering into any agreement with a
16 State under subparagraph (A), the Secretary shall
17 ensure that, as a result of such agreement and all
18 other agreements entered into under subparagraph
19 (A), only one State will be recognized, with respect
20 to any particular association health plan, as the pri-
21 mary domicile State to which authority has been del-
22 egated pursuant to such agreements.”.

23 **SEC. 5307. EFFECTIVE DATE AND TRANSITIONAL RULES.**

24 (a) EFFECTIVE DATE.—The amendments made by
25 sections 5302, 5305, and 5306 shall take effect on Janu-

1 ary 1, 1999. The amendments made by sections 5303 and
2 5304 shall take effect on the date of the enactment of
3 this Act. The Secretary of Labor shall issue all regulations
4 necessary to carry out the amendments made by this Act
5 before January 1, 1999.

6 (b) EXCEPTION.—Section 801(a)(2) of the Employee
7 Retirement Income Security Act of 1974 (added by section
8 5302) does not apply with respect to group health plans
9 (as defined in section 733(a)(1) of such Act) existing on
10 April 1, 1997, which do not provide health insurance cov-
11 erage (as defined in section 733(b)(1) of such Act) on such
12 date.